

### **REMARKS**

Claims 10-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oles et al. (US Patent 4,769,205) ("Oles") in view of Davidson et al. (US Patent 6,815,048)("Davidson"). The applicant respectfully traverses this rejection.

The Examiner states at the top of page 3 of the Office Action that "both [references] are in the same field of endeavor and solve the same problem, that in in-mold labeling". Therefore, the Examiner concludes that the references can be combined. The applicant respectfully believes the Examiner is wrong. Oles does not solve any problem about adherence or appearance of the label. The applicant believes that the Examiner could only make this combination after the Examiner learned about the applicant's invention, which is a hindsight combination.

Oles does not disclose which kind of a material shall be used in the blow mold in-mold process. Oles does not even disclose whether paper or plastic films shall be used in his process. Oles does not provide any motivation to pick and choose a specific thermoplastic film, let alone a thermoplastic film of a porous structure. Oles is related to the blow mold / in-mold process and by no means comprises any teaching about the material which shall be used in the applicant's claimed process. Oles does not even suggest that the material is critical. There is no teaching whatsoever about the material of the label! NOTHING in Oles which suggests which material might work, adhere, or appear well. Oles is absolutely silent about the kind, structure and nature of the material to be used in his process. A person skilled in the art would derive from Oles that the material of the label is completely uncritical, that any material would work. The applicant's claimed invention is based in the finding that this is not true. Not any material works in the process of Oles. But Oles does not teach about the material for the label or problems related to the choice of the label material. Therefore Oles cannot be combined in an obvious manner with

prior art related to a specific material (porous film). Oles is a process patent about the blow molding process.

Davidson is a film patent about a specific film structure and about a process of making films. Therefore both references are NOT in the same field and do not solve the same problem and therefore cannot be combined in an obvious manner.

Enclosed is a declaration Karl Heinz Kochem which establishes that one of ordinary skill in the art would not combine these references. The declaration explains the technical differences between these two types of materials. It is noted, that one of ordinary skill in the art of plastic film and labels made from plastic film would not combine these two references. For the above reasons, this rejection should be withdrawn.

In view of the above response, applicant believes the pending application is in condition for allowance.

A three month extension of time has been paid. Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05581-00131-US from which the undersigned is authorized to draw.

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Respectfully submitted,

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**ENCLOSURE: DECLARATION**